

Introduced by Senator Battin

February 5, 2003

An act to amend Sections 24185 and 24187 of the Health and Safety Code, relating to human cloning.

LEGISLATIVE COUNSEL'S DIGEST

SB 133, as introduced, Battin. Human cloning.

Existing law prohibits a person from cloning a human being or engaging in human reproductive cloning, as defined, and from purchasing or selling an ovum, zygote, embryo, or fetus for the purpose of cloning a human being.

This bill would delete the prohibition against engaging in human reproductive cloning.

Existing law defines “clone” to mean the practice of creating or attempting to create a human being by transferring the nucleus from a human cell from whatever source into a human or nonhuman egg cell from which the nucleus has been removed for the purpose of, or to implant, the resulting product to initiate a pregnancy that could result in the birth of a human being.

This bill would instead define “clone a human being” to mean engaging in human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte, which has had its nuclear material removed or inactivated, so as to produce a living organism, at any stage of development, that is virtually genetically identical to an existing or previously existing human organism.

Existing law authorizes the Director of Health Services to levy administrative penalties for violation of these provisions by a fine of \$1,000,000 on a corporation, firm, clinic, hospital, laboratory, or

research facility, and \$250,000 on an individual, or twice the amount of any pecuniary gain from the violation, whichever is greater.

This bill would eliminate the department's authority to assess civil penalties, and, instead, provide that those violations would be a crime punishable by fines in the amounts provided for in existing law.

This bill would, by creating new crimes, constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24185 of the Health and Safety Code is
2 amended to read:

3 24185. (a) No person shall clone a human being ~~or engage in~~
4 ~~human reproductive cloning.~~

5 (b) No person shall purchase or sell an ovum, zygote, embryo,
6 or fetus for the purpose of cloning a human being.

7 (c) For purposes of this ~~chapter~~ section, the following
8 definitions apply:

9 (1) ~~“Clone” means the practice of creating or attempting to~~
10 ~~create a human being by transferring the nucleus from a human cell~~
11 ~~from whatever source into a human or nonhuman egg cell from~~
12 ~~which the nucleus has been removed for the purpose of, or to~~
13 ~~implant, the resulting product to initiate a pregnancy that could~~
14 ~~result in the birth of a human being.~~

15 (2) ~~“Department” means the State Department of Health~~
16 ~~Services.~~

17 (3) ~~“Human reproductive cloning” means the creation of a~~
18 ~~human fetus that is substantially genetically identical to a~~
19 ~~previously born human being. The department may adopt,~~
20 ~~interpret, and update regulations, as necessary, for purposes of~~
21 ~~more precisely defining the procedures that constitute human~~
22 ~~reproductive cloning. “Clone a human being” means engaging in~~

1 *human asexual reproduction, accomplished by introducing*
2 *nuclear material from one or more human somatic cells into a*
3 *fertilized or unfertilized oocyte, which has had its nuclear material*
4 *removed or inactivated, so as to produce a living organism, at any*
5 *stage of development, that is virtually genetically identical to an*
6 *existing or previously existing human organism.*

7 (2) “Asexual reproduction” means reproduction not initiated
8 by the union of an oocyte and sperm.

9 (3) “Somatic cell” means a diploid cell, having a complete set
10 of chromosomes, obtained or derived from a living or deceased
11 human body, at any stage of development.

12 (d) Nothing in this section shall be interpreted to restrict areas
13 of scientific research that are not specifically prohibited by this
14 section, including, but not limited to, research involving the use of
15 nuclear transfer or other cloning techniques to produce molecules,
16 DNA, cells other than human embryos, tissues, organs, plants, or
17 animals other than humans.

18 SEC. 2. Section 24187 of the Health and Safety Code is
19 amended to read:

20 24187. ~~For violations of Section 24185, the State Director of~~
21 ~~Health Services may, after appropriate notice and opportunity for~~
22 ~~hearing, by order, levy administrative penalties. Each violation of~~
23 ~~Section 24185 is a crime, punishable as follows:~~

24 (a) If the ~~violation~~ defendant is a corporation, firm, clinic,
25 hospital, laboratory, or research facility, by a ~~civil penalty~~ fine of
26 not more than one million dollars (\$1,000,000) or the applicable
27 amount under subdivision (c), whichever is greater.

28 (b) If the ~~violation~~ defendant is an individual, by a ~~civil penalty~~
29 ~~fine~~ of not more than two hundred fifty thousand dollars
30 (\$250,000) or the applicable amount under subdivision (c);
31 ~~whichever is greater.~~

32 (c) If any ~~violation~~ defendant derives pecuniary gain from a
33 violation of this section, the ~~violation~~ defendant may be assessed
34 ~~a civil penalty of~~ fined not more than an amount equal to the
35 amount of the gross gain multiplied by two.

36 ~~(d) The administrative penalties shall be paid to the General~~
37 ~~Fund.~~

38 SEC. 3. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

O

